

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

R. TODD NEILSON,  
as Responsible Individual/Disbursing Agent  
for WEBVAN GROUP, INC., et al.,

Plaintiff,

v.

J. TERRENCE DRAYTON,

Defendant.

No. C05-00758 MJP

STIPULATED PROTECTIVE ORDER  
AND CONFIDENTIALITY  
AGREEMENT

Plaintiff R. Todd Neilson ("Plaintiff") and Defendant J. Terrence Drayton ("Defendant"),  
by and through their attorneys of record, agree to the following protective order and ask that the  
Court enter it as an order of the Court. The parties agree to comply with the terms of this  
stipulation commencing immediately upon its execution by them.

The parties are exchanging and analyzing documents requested in the course of discovery  
in this matter. The parties may also take depositions of various witnesses and procure affidavits  
and/or declarations. Some of the documents produced and/or testimony offered will include  
personal financial and bank records of defendant, along with confidential and/or other protected  
information. The parties have no interest in disclosing this information to any third parties, but  
only seek to use the documents and testimony to pursue this litigation. Therefore, the parties  
agree as follows:

STIPULATED PROTECTIVE ORDER  
AND CONFIDENTIALITY AGREEMENT - 1  
Case No. C05-00758 MJP

FOSTER PEPPER PLLC  
1111 THIRD AVENUE, SUITE 3400  
SEATTLE, WASHINGTON 98101-3299  
PHONE (206) 447-4400 FAX (206) 447-9700

1           1.       The parties agree that they will treat any document produced or any testimony  
2 provided by the parties or third parties as “confidential” pursuant to this stipulation to the extent  
3 such documents or testimony relate in any way to any personal, financial and/or bank records of  
4 the Defendant. “Confidential” information shall only be used by “Qualified Persons” solely for  
5 purposes directly related to this lawsuit and will not be otherwise disclosed, except pursuant to  
6 court order, to anyone except “Qualified Persons.” For the purposes of this order, “Qualified  
7 Persons” means the parties’ counsel of record and their staffs, the assigned judge and her staff,  
8 experts, witnesses, and any other persons designated by the parties, their counsel or the Court.

9           2.       All documents or testimony designated as “confidential” will be kept confidential  
10 by the parties and their counsel, consultants, experts, accountants, or any other agents or  
11 representatives, all of whom must agree to be bound by the terms of the protective order.  
12 Defendant may remedy any inadvertent failure to designate documents or testimony as  
13 “confidential” by supplemental written notice within a reasonable time after production.

14           3.       Third-party consultants, experts, accountants, or any other agents or  
15 representatives must execute a Non-Disclosure Agreement in the form attached as *Exhibit A*  
16 before receiving any documents designated as “confidential.”

17           4.       In the event that the parties desire to use a confidential document or the contents  
18 of a confidential document in a deposition, counsel shall advise the court reporter of this  
19 stipulation and order and advise the court reporter that all copies of the deposition shall be  
20 marked “Confidential—Subject to Protective Order in *Neilson v. Drayton*” before delivery to any  
21 party.

22           5.       In his pleadings, Plaintiff will not attach, quote from, or otherwise reveal the  
23 substance of Defendant’s “confidential” documents. If a court orders Plaintiff to file or  
24 introduce defendant’s “confidential” documents, then Plaintiff will file those documents under  
25 seal or request *in camera* review.  
26

1           6.       If there is a disagreement about the nature of information which is designated as  
2 “confidential,” the parties agree to confer and make every effort to resolve disputes without court  
3 intervention. In the event such a dispute is unresolved, the document shall be deemed  
4 “confidential” until such time as a court order is issued which determines that the document is  
5 not confidential.

6           7.       Upon settlement of this litigation, Plaintiff will promptly return to Defendant all  
7 of Defendant’s documents and will not retain any copies thereof, whether kept in hard-copy or  
8 electronic form.

9                   IT IS SO ORDERED this \_10<sup>th</sup>\_ day of January, 2006.

10  
11  
12                                   /s Marsha J. Pechman  
13                                   United States District Court Judge

14       Stipulated by:

15       FOSTER PEPPER PLLC

16       /s Jeffrey Miller

17       Jeffrey S. Miller, WSBA No. 28077

18       Brian D. DeSoto, WSBA No. 31434

19       Attorneys for Defendant Terry Drayton

20       MCNUTT & LITTENEKER, LLP

21       /s Christopher Hart

22       Christopher H. Hart, CSBN 184117

23       Attorneys for Estate Representative R. Todd Neilson

24                   and

25       GORDON, THOMAS, HONEYWELL, MALANCA,

26       PETERSON & DAHEIM LLP

      Bruce P. Kriegman, WSBA No. 14228

      Special Counsel to Estate Representative

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**EXHIBIT A**

**NON-DISCLOSURE AGREEMENT**

I, \_\_\_\_\_, hereby certify my understanding that confidential documents are being provided to me pursuant to the terms and restrictions of a Stipulated Protective Order and Confidentiality Agreement in *Neilson v. Drayton* (W.D. Wash. No. C05-00758 MJP).

I further certify that I have been provided a copy of and have read the Stipulated Protective Order and Confidentiality Agreement, and I agree to comply with and be bound by its terms and conditions. I also consent to the jurisdiction of the Court for the purposes of enforcing the Stipulated Protective Order and Confidentiality Agreement. I understand that violation of the Stipulated Protective Order and Confidentiality Agreement is punishable by contempt of Court.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Name:  
NOTARY PUBLIC in and for the  
State of \_\_\_\_\_, residing at  
\_\_\_\_\_  
My commission expires \_\_\_\_\_